

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN S. GARCIA,

CV F 02-5878 AWI DLB HC

Petitioner,

ORDER DENYING PETITIONER'S MOTIONS

v.

[Docs. 50, 61, 66]

JIM HAMLET,

Respondent.

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Pending before the Court is Petitioner's motion for discovery, filed September 14, 2005, and Petitioner's motion for permission to submit late evidence in support of his argument for equitable tolling, filed October 7, 2005.

In his September 14, 2005, motion for discovery, Petitioner requests that Respondent submit a mail-out log sheet from Corcoran State Prison to demonstrate that he mailed a writ of habeas corpus petition to the California Supreme Court in December of 1999.

In his October 7, 2005, motion to submit late evidence, Petitioner seeks to submit evidence in support of his argument for equitable tolling.

On December 6, 2005, the Court granted Respondent's request to withdraw his motion for reconsideration of the prior order denying his motion to dismiss the instant petition. As such, the case is now ready for review on the merits, and the issue of timeliness has been resolved.

1 Therefore, Petitioner's motions for discovery and submission of late evidence shall be DENIED
2 as moot.

3 Based on the foregoing, it is HEREBY ORDERED that Petitioner's motion for discovery,
4 filed September 14, 2005, and motion to submit late evidence, filed October 7, 2005, are
5 DENIED as MOOT.

6 IT IS SO ORDERED.

7 **Dated: February 3, 2006**
8 3b142a

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE